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8
9 **BEFORE THE**
BOARD OF REGISTERED NURSING
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 2009-50

13 **PATRICIA JEAN VALINOTI**
6333 Pacific Ave #104,
14 Stockton, CA 95207

A C C U S A T I O N

15 Registered Nurse License No. 524586

16 Respondent.

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18 Ruth Ann Terry, M.P.H., R.N. ("Complainant") alleges:

19 **PARTIES**

20 1. Complainant brings this Accusation solely in her official capacity as the
21 Executive Officer of the Board of Registered Nursing ("Board"), Department of Consumer
22 Affairs.

23 2. On or about July 31, 1996, the Board issued Registered Nurse License
24 Number 524586, to Patricia Jean Valinoti ("Respondent"). The license will expire on
25 May 31, 2010, unless renewed.

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JURISDICTION

3. Business and Professions Code ("Code") section 2750 provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

4. Code section 2764 provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under Code section 2811(b), the Board may renew an expired license at any time within eight years after the expiration.

STATUTORY PROVISIONS

5. Code section 2761 states, in pertinent part:

The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for the following:

(a) Unprofessional conduct.

(f) Conviction of a felony or of any offense substantially related to the qualifications, functions, and duties of a registered nurse, in which event the record of the conviction shall be conclusive evidence thereof.

6. Code section 2762 states, in pertinent part:

In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this chapter to do any of the following:

(a) Obtain or possess in violation of law, or prescribe, or except as directed by a licensed physician and surgeon, dentist, or podiatrist administer to himself or herself, or furnish or administer to another, any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code or any dangerous drug or dangerous device as defined in Section 4022.

(c) Be convicted of a criminal offense involving the prescription, consumption, or self-administration of any of the substances described in subdivisions (a) and (b) of this section, or the possession of, or falsification of a record pertaining to, the substances described in subdivision (a) of this section, in which event the record of the conviction is conclusive evidence thereof.

1 7. Code section 2770.11 states:

2 (a) Each registered nurse who requests participation in a diversion
3 program shall agree to cooperate with the rehabilitation program
4 designed by a committee. Any failure to comply with the provisions of
5 a rehabilitation program may result in termination of the registered
6 nurse's participation in a program. The name and license number of a
7 registered nurse who is terminated for any reason, other than successful
8 completion, shall be reported to the board's enforcement program.

9 (b) If a committee determines that a registered nurse, who is denied
10 admission into the program or terminated from the program, presents a
11 threat to the public or his or her own health and safety, the committee
12 shall report the name and license number, along with a copy of all
13 diversion records for that registered nurse, to the board's enforcement
14 program. The board may use any of the records it receives under this
15 subdivision in any disciplinary proceeding.

16 8. Code section 492 states:

17 Notwithstanding any other provision of law, successful completion
18 of any diversion program under the Penal Code, or successful com-
19 pletion of an alcohol and drug problem assessment program under
20 Article 5 (commencing with section 23249.50) of Chapter 121 of
21 Division 11 of the Vehicle Code, shall not prohibit any agency
22 established under Division 2 (commencing with section 500) of this
23 Code, or any initiative act referred to in that division, from taking
24 disciplinary action against a licensee or from denying a license for
25 professional misconduct, notwithstanding that evidence of that mis-
26 conduct may be recorded in a record pertaining to an arrest.

27 This section shall not be construed to apply to any diversion program
28 operated by any agency established under Division 2 (commencing with
29 section 500) of this Code, or any initiative act referred to in that
30 division.

31 **COST RECOVERY**

32 9. Code section 125.3 provides, in pertinent part, that the Board may request
33 the administrative law judge to direct a licentiate found to have committed a violation or
34 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
35 and enforcement of the case.

36 **DRUGS**

37 10. "Cocaine" is a Schedule II controlled substance as designated by Health
38 and Safety Code section 11055(b)(6).

39 11. "Marijuana" is a Schedule I controlled substance as designated by Health
40 and Safety Code section 11054(d)(13).

**RESPONDENT'S TERMINATION FROM BOARD'S
DIVERSION PROGRAM AS A PUBLIC RISK**

12. On or about July 25, 2007, Respondent enrolled in the Board's Diversion Program. On or about January 3, 2008, the Diversion Evaluation Committee ("DEC") terminated Respondent from the Diversion Program for noncompliance/public risk due to the following:

- a. Respondent missed calls to Compass Vision, Inc. ("CVI")¹ on October 12, 2007, October 21, 2007, and October 26, 2007.
- b. Respondent missed tests to CVI on October 6, 2007, October 12, 2007, and October 26, 2007.
- c. Respondent had four (4) out of ranges at CVI.
- d. Respondent had unauthorized travel to Utah.
- e. Respondent tested positive for alcohol on December 26, 2007.

FIRST CAUSE FOR DISCIPLINE

(Conviction of a Crime)

13. Respondent is subject to discipline under Code section 2761(f), in that on or about October 3, 2007, in the case of *People v. Patricia Jean Valinoti*, (Super. Ct. San Joaquin County, 2007, Case No. ST046518A), Respondent was convicted by the Court on her plea of no contest of violating Vehicle Code section 23103/23103.5 (reckless driving),² a misdemeanor, a crime that is substantially related to the qualifications, functions or duties of a registered nurse.

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1. CVI is a provider of testing solutions for healthcare monitoring programs nationwide.

2. In satisfaction of, or as a substitute for, an original charge of violating Vehicle Code section 23152(a) (driving a vehicle while under the influence of alcohol or drugs.)

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1 f. On or about June 27, 2007, Respondent self-administered Cocaine, a controlled
2 substance, without the direction to do so from a licensed physician and surgeon, dentist or
3 podiatrist.

4 g. In or about July 2007, Respondent possessed Marijuana, a controlled
5 substance, in violation of Code section 4060, in that she did not have a prescription for that
6 controlled substance.

7 h. In or about July 2007, Respondent self-administered Marijuana, a controlled
8 substance, without the direction to do so from a licensed physician and surgeon, dentist or
9 podiatrist.

10 **PRAYER**


11 **WHEREFORE**, Complainant requests that a hearing be held on the matters
12 herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

13 1. Revoking or suspending Registered Nurse License No. 524586, issued to
14 Patricia Jean Valinoti;

15 2. Ordering Patricia Jean Valinoti to pay the Board of Registered Nursing the
16 reasonable costs of the investigation and enforcement of this case, pursuant to Code section
17 125.3; and,

18 3. Taking such other and further action as deemed necessary and proper.

19 DATED: 9/8/08

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21 RUTH ANN TERRY, M.P.H., R.N.
22 Executive Officer
23 Board of Registered Nursing
24 Department of Consumer Affairs
25 State of California
26 Complainant
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